

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN TORRES, #688446,

Petitioner,

v.

CASE NO. 2:18-CV-11473
HONORABLE SEAN F. COX

RANDEE REWERTS,

Respondent.

**ORDER DENYING MOTION FOR A CERTIFICATE OF APPEALABILITY AND
DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS ON APPEAL
AND TRANSFERRING REQUESTS TO THE SIXTH CIRCUIT**

This matter is before the Court on Petitioner's motion for a certificate of appealability and his application to proceed in forma pauperis on appeal concerning the denial of his petition for a writ of habeas corpus. The Court, however, denied a certificate of appealability and denied leave to proceed in forma pauperis on appeal in its opinion and order denying the petition. Consequently, the Court shall construe Petitioner's current motion and application as requests for reconsideration.

See Jackson v. Crosby, 437 F.3d 1290, 1294 n. 5 (11th Cir. 2006); *Lyons v. Lafler*, No. 2:10-CV-11386, 2013 WL 812083, *1 (E.D. Mich. March 5, 2013); *Pettigrew v. Rapelje*, No. 08-12530-BC, 2008 WL 4186271, *1 (E.D. Mich. Sept. 10, 2008). The Court finds no reason to reconsider its prior decision. A motion for reconsideration which presents issues already ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997).

Such is the case here. Petitioner has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a

correction thereof as required by Local Rule 7.1(h)(3). Accordingly, the Court denies the motion for a certificate of appealability and the application to proceed in forma pauperis on appeal.

When a district court denies a certificate of appealability and denies leave to proceed in forma pauperis on appeal, the proper procedure is for the habeas petitioner to file a motion for a certificate of appealability and/or an application for leave to proceed in forma pauperis on appeal with the appellate court. *See Sims v. United States*, 244 F.3d 509 (6th Cir. 2011) (citing Fed. R. App. P. 22(b)(1)). Accordingly, in the interests of justice, the Court transfers the motion for a certificate of appealability and the application to proceed in forma pauperis on appeal to the United States Court of Appeals for the Sixth Circuit.¹

IT IS SO ORDERED.

Dated: August 31, 2018

s/Sean F. Cox

Sean F. Cox
U. S. District Judge

I hereby certify that on August 31, 2018, the foregoing document was served on counsel of record via electronic means and upon Steven Torres via First Class mail at the address below:

Steven Torres 688446
CARSON CITY CORRECTIONAL FACILITY
10274 BOYER ROAD
CARSON CITY, MI 48811

s/J. McCoy
Case Manager

¹The Court notes that Petitioner filed a notice of appeal at the time he filed the instant motion and application.